IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.8538 of 2011

Date of Decision:13.05.2011

Block Development and Panchayat Officer **.....Petitioner**

Versus

The State Information Commissioner and another **.....Respondents**

CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR.

Present: **Mr.Arvind Singh, Advocate,**
for the petitioner.

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MEHINDER SINGH SULLAR, J.(oral)

The epitome of the facts, culminating in the commencement, relevant for disposal of the present writ petition and emanating from the record, is that complainant-Dharambir son of Amrik Singh, information seeker(for short "the complainant") moved an application dated 17.08.2010(Annexure P-1) to the petitioner-SPIO-cum-Block Development and Panchayat Officer, Naraingarh, and sought the information mentioned therein, in view of the provisions of The Right to Information Act, 2005(hereinafter to be referred as "the Act"). As the complete information was not supplied to him by the petitioner-SPIO, therefore, the first appeal filed by the complainant was also dismissed by the First Appellate Authority-cum-District Development and Panchayat Officer, by way of order dated 25.10.2010(Annexure P-4).

2. Aggrieved by the order(Annexure P-4), the complainant filed the second appeal, which was accepted by the State Information Commissioner(for brevity "the SIC") and the petitioner-SPIO was directed to furnish the complete information, as per application(Annexure P-1) to the complainant, by virtue of

impugned order dated 17.03.2011(Annexure P-7).

3. Instead of supplying the complete information, the petitioner-SPIO did not feel satisfied and preferred the instant writ petition, challenging the impugned order(Annexure P-7), invoking the provisions of Articles 226/227 of the Constitution of India.

4. After hearing the learned counsel for the petitioner, going through the record with his valuable assistance and after deep consideration of the entire matter, to my mind, there is no merit in the present writ petition in this respect.

5. *Ex facie,* the argument of the learned counsel that as the information sought by the complainant, cannot be furnished, in view of Rule 73 of the Haryana Panchayati Raj Election Rules, 1994, therefore, the impugned order(Annexure P-7) of the SIC, is illegal, is neither tenable, nor the observation of the Delhi High Court in case titled as **Election Commission of India Versus Central Information Commission and others, 2009(164) DLT 205,** is at all applicable to the facts of the present case, wherein, the information sought was, "confirmation of information on the EVM (date and time, votes polled, vote tally and any other information which were noted down from the EVM machines, including any spare machines that were used, to from 17 C math (sic) the information presently available on the EVMs and that there has been no deletion/alteration or addition of information by reason of any technical or other flaw in the EVMs etc." On the peculiar facts and in the circumstances of that case, it was observed that since such material/information sought, was covered under the provisions of the Representation of People's Act and does not constitute information, as defined under the RTI Act, so, the complainant was held not entitled to seek information, contained in the EVM machines. Hardly, there is any quarrel with regard to the aforesaid observations, but to me, the same would not come to the rescue of the petitioner in the instant controversy.

6. As is evident from the record that the complainant has only sought

the following information through the medium of application(Annexure P-1):-

> *"Full name and address of the voters who had casted their votes in the election of Gram Panchayat Bakhtua held on 12.6.2010 and total number of votes casted booth-wise number of votes received by the each contesting candidates (specify of each candidates)."*

7. Meaning thereby, in the instant case, the information sought by the complainant, is routine and general in nature and no confidentiality is attached to it, in any manner. To my mind, unless and until, the information falls within the exemption clause of Section 8 or 24 of the Act, then the petitioner is legally bound to furnish the information to the complainant under Section 3, as per procedure contemplated under Sections 6 and 7 of the Act.

8. Moreover, proviso to Section 8 of the Act postulates that the information, which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person. Learned counsel for the petitioner has miserably failed to show that such information sought by the complainant, cannot be supplied to the Parliament or a State Legislature. In this manner, since, the information sought by the complainant does not fall in any exemption clause of the Act, so, to my mind, the petitioner is legally required to furnish the indicated information to the complainant. Therefore, the contrary arguments on his behalf, are liable to be and are repelled and the impugned order(Annexure P-7) deserves to be and is hereby maintained in the obtaining circumstances of the case.

9. In the light of aforesaid reasons, as there is no merit, therefore, the instant writ petition is dismissed as such.

May 13, 2011 (**M**EHINDER **S**INGH **S**ULLAR)
seema JUDGE